#

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3454 OF 2006

Gajanan Dwarka Pawar .. Applicant

Versus

State of Maharashtra .. Respondent

Mr.R.S.Thakur for applicant

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 10th October 2006

P.C.

. Applicant is arrested in connection with C.R.No.36 of 2005 registered with Pali Police Station alleging offences punishable under

section 396, 411 and 412 of I.P.C. Applicant is under arrest from 18th January 2006. Investigation is complete and charge sheet is filed.

2. The co-accused are enlarged on bail but the applicant's application has been rejected because the learned A.P.P. appearing before the trial court had made a statement that the applicant, if enlarged on bail, may not only threaten the witnesses but would abscond. He is habitual offender and has committed offences in Solapur, Ambad, Panvel and Thane.

3. The trial court has noted in the order that stolen articles were recovered from the applicant and he was identified by the wife of the complainant. There is prima facie case against the applicant. The case is ripe for committing to sessions court and there is possibility of trial commencing in near future but in the light of the above statement of A.P.P.

before the trial court, the bail was denied.

4. On the last occasion, I had directed that the applicant shall disclose his address. Accordingly, he has disclosed his address of Jalna Dist. as his residential address. Whether he really resides within the limits of Pali police station or not and if he is not so residing, then appropriate material should have been placed with regard to the statement made before the trial court.

5. Today in the presence of the I.O., learned A.P.P. makes a statement that there are no particulars. However, even if co-accused are enlarged on bail, applicant’s case should not be considered on parity in the light of the recovery and because the house of complainant was identified and shown to others by the accused-applicant herein.

6. Having perused the order passed by the

trial court and the application preferred before me in its entirety, in my view, four persons have been arrested in the crime. The applicant has been assigned the role of identifying and showing house of complainant to the co-accused. Other accused have been enlarged on bail. Apart from above, there is no role attributed to the applicant. Applicant has agreed to reside within Pali taluka till conclusion of trial and has also undertaken not to leave the same without prior permission of the trial court.

7. In such circumstances, following order would meet the ends of justice.

i) The applicant arrested in connection with C.R.No.36 of 2005 registered with Pali Police Station shall be enlarged in the sum of Rs.15,000/- with one or two local sureties in the like amount.

ii) The bail is granted subject to condition that the applicant will remain present before the concerned investigating officer of Pali Police Station once a week on every Friday between 5.00 p.m. and 7.00 p.m.till conclusion of the trial. Applicant shall not leave Pali taluka without prior permission of the trial court.

iii) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the Investigating officer.

iv) The bail is granted subject to

condition that the applicant shall not directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

v) The applicant shall cooperate with the learned Trial Judge for expeditious disposal of the case. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

(S.C.DHARMADHIKARI, J)